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3 Honorable Lonny R. Suko
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5 Michael A. Patterson, WSBA 7976
Michael T. Kitson, WSBA 41681
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10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF WASHINGTON

12 BETTY RUCKER, and others,
13 Plaintiffs,
14 v.
15 SPOKANE COUNTY, a municipal
corporation,
16 Defendant.

17 No. CV-12-05157-LRS

18 ORDER GRANTING JOINT
MOTION FOR CLASS
CERTIFICATION FOR
SETTLEMENT PURPOSES AND
PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT

19 THIS MATTER, having come regularly before the Court in the above-
20 captioned matter upon the Parties' Joint Motion for Class Certification for
21 Settlement Purposes and Preliminary Approval of Proposed Settlement, pursuant
22 to Federal Rule of Civil Procedure ("FRCP") 23(a) and 23(b)(3), and the Court
23 having reviewed the files and pleadings herein, including:

- 24 1. Joint Motion for Class Certification for Settlement Purposes and
Preliminary Approval of Proposed Settlement; and
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ORDER GRANTING JOINT MOTION FOR
CLASS CERTIFICATION FOR
SETTLEMENT PURPOSES AND
PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT- 1
CV-12-05157-LRS

12-5157 Proposed Order Granting Joint Motion for Class Cert

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2. The Declaration of Michael T. Kitson in Support of Joint Motion for Class Certification for Settlement Purposes and Preliminary Approval of Proposed Settlement, including the *Settlement Agreement*, which together with the exhibits thereto, sets forth the terms and conditions for a proposed settlement of this matter.

THE COURT FINDS and ORDERS:

1. This Order (“Preliminary Approval Order”) incorporates by reference the definitions in the *Settlement Agreement*; all italicized terms shall have the same meanings set forth in the *Settlement Agreement*.

2. The class definition proposed by the parties is appropriate.

3. The requirements of FRCP 23(a) are satisfied.

4. The action is properly maintained as a class action under FRCP

| 23(b)(3).

5. Betty Rucker is an appropriate class representative.

6. Plaintiff's counsel, Breean L. Beggs, Jeffry K. Finer, and Andrew Biviano are qualified to serve as *Class Counsel*.

7. The *Class* shall be certified as:

All individuals who were incarcerated in Spokane County Jail between January 26, 2008, and the date the court preliminarily approves settlement of the case, for failure to pay their Legal Financial Obligations as directed by an agreed “Order Enforcing Sentence-LFO.”

8. The Court preliminarily approves the *Settlement Agreement* and the *Plan of Allocation* to be fair, reasonable, and adequate.

5. The Court approves, as to form and content, the proposed *Settlement Agreement*, which is annexed as Exhibit A to the Declaration of Michael T.

**ORDER GRANTING JOINT MOTION FOR
CLASS CERTIFICATION FOR
SETTLEMENT PURPOSES AND
PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT- 2
CV-12-05157-J-RS**

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1 Kitson in Support of Joint Motion for Class Certification for Settlement Purposes
 2 and Preliminary Approval of Proposed Settlement.

3 6. The Court approves, as to form and content, the *Official Notice* of
 4 *Class Action* and *Publication Notice*, which are annexed as Exhibit B and Exhibit
 5 C to the Declaration of Michael T. Kitson in Support of Joint Motion for Class
 6 Certification for Settlement Purposes and Preliminary Approval of Proposed
 7 Settlement.

8 7. The Court finds that the mailing, publication, and distribution of the
 9 *Mailed Notice* and *Publication Notice* substantially in the manner and form set
 10 forth in paragraph 9 below, constitutes the best notice practicable under the
 11 circumstances, including individual notice to all *Class Members*, and constitutes
 12 valid, due, and sufficient notice to all persons entitled thereto, complying fully
 13 with the requirements of Fed. R. Civ. P. 23 and due process.

14 8. The Court approves the following schedule:

Notice mailed to Class Members	Within 30 days after the Order of Preliminary Approval
<i>Publication Notice</i> published in English in the <i>Spokesman Review</i> and posted at Spokane County Jail	No later than 21 days after the Order of Preliminary Approval
Last day for Class Members to object to or opt-out of Settlement.	January 23, 2015
Deadline for filing Motion For Final Approval Of Class Settlement And For Attorney's Fees	January 28, 2015
Final Approval Hearing	February 25, 2015

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25 ORDER GRANTING JOINT MOTION FOR
 CLASS CERTIFICATION FOR
 SETTLEMENT PURPOSES AND
 PRELIMINARY APPROVAL OF
 PROPOSED SETTLEMENT- 3
 CV-12-05157-LRS

12-5157 Proposed Order Granting Joint Motion for Class Cert

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1 9. Notice shall be issued by the *County* in the following form: The
 2 County shall cause to be mailed, by first class mail, copies of the *Class Notice*
 3 *Form* to the last known address of all *Class Members*. The *Publication Notice*
 4 will run twice (once on a weekday and once on a Sunday) in the *Spokesman*
 5 *Review*. The *Publication Notice* will run within 21 days after preliminary
 6 approval is entered by this Court.

7 10. At or prior the Fairness Hearing (as defined below), the *County* shall
 8 file with the Court and serve on *Class Counsel* proof by declaration or affidavit of
 9 the mailing, publication, and posting at Spokane County Jail described in
 10 paragraph 9 above.

11 11. A hearing (the “Fairness Hearing”) shall be held on February 25,
 12 2015, at 2 p.m. before the Honorable Lonny R. Suko, United States District Court
 13 Judge, at the United States District Court for the Eastern District of Washington,
 14 920 West Riverside Avenue, Spokane, WA 99201, for the purpose of
 15 determining: (a) whether the proposed *Settlement* as set forth in the *Agreement* is
 16 fair, reasonable and adequate and should be approved by the Court; (b) whether
 17 an *Order of Final Judgment and Dismissal* should be entered; (c) whether the
 18 proposed *Plan of Allocation* is fair and reasonable and should be approved by the
 19 Court; (d) whether and in what amount attorneys’ fees and costs should be
 20 awarded to *Class Counsel*; and (e) whether and in what amount an *Incentive*
 21 *Award* should be issued to the *Named Plaintiff*, and to rule upon such other
 22 matters as the *Agreement* contemplates and as the Court may deem just and
 23 proper.

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ORDER GRANTING JOINT MOTION FOR
 CLASS CERTIFICATION FOR
 SETTLEMENT PURPOSES AND
 PRELIMINARY APPROVAL OF
 PROPOSED SETTLEMENT- 4
 CV-12-05157-LRS

12-5157 Proposed Order Granting Joint Motion for Class Cert

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1 12. A Joint Motion for Final Approval of the Class Settlement and Final
 2 Judgment and Dismissal, and all papers in support of the Settlement shall be filed
 3 at least fifteen (15) days prior to the *Fairness Hearing*.

4 13. Any *Class Member* may appear and show cause as to why the Court
 5 should or should not: (a) approve the proposed *Settlement* as set forth in the
 6 *Settlement Agreement* as fair, reasonable and adequate; (b) enter the Order of
 7 Final Judgment and Dismissal; (c) award attorneys' fees and costs to *Class*
 8 *Counsel*; and/or (d) award an *Incentive Award* to the *Named Plaintiff*, provided,
 9 however, that no person shall be heard with respect to, or shall be entitled to
 10 contest, the foregoing matters unless on or before January 25, 2015, that person
 11 has mailed notice of his, her or its intention to appear, setting forth briefly each
 12 objection and the basis therefore, together with copies of any papers and briefs in
 13 support of said objections and proof of membership in the *Class*, to the Clerk of
 14 the Court at the following address: Thomas S. Foley U.S. Courthouse, 920 West
 15 Riverside Avenue, Spokane, WA 99201. Unless otherwise ordered by the Court,
 16 any *Class Member* who does not make his or her objection in the manner
 17 provided for herein, shall be deemed to have waived such objection and shall
 18 forever be foreclosed from making any objection to the foregoing matters.

19 14. The Court may adjourn the Fairness Hearing from time to time and
 20 without further notice to the *Class*. The Court reserves the right to approve the
 21 *Settlement* at or after the Fairness Hearing with such modifications as may be
 22 consented to by the *Settling Parties* and without further notice to the *Class*. The
 23 Court further reserves the right to enter a *Final Order*, dismissing the action with
 24 prejudice as to the Defendant and against the *Named Plaintiff* and the *Class* at or
 25 after the Fairness Hearing and without further notice to the *Class*.

ORDER GRANTING JOINT MOTION FOR
 CLASS CERTIFICATION FOR
 SETTLEMENT PURPOSES AND
 PRELIMINARY APPROVAL OF
 PROPOSED SETTLEMENT- 5
 CV-12-05157-LRS

12-5157 Proposed Order Granting Joint Motion for Class Cert

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1 15. Upon entry of the Final Order, the *Named Plaintiff*, and each of the
 2 *Class Members*, on behalf of themselves, their successors, assigns, and any other
 3 person claiming (now and in the future) through or on behalf of them, and
 4 regardless of whether any such *Named Plaintiff* or *Class Member* ever seeks or
 5 obtains by any means any distribution from the *Settlement Fund*, shall be bound
 6 by the *Final Order* and by the terms of the *Settlement Agreement*. Upon entry of
 7 the *Final Order*, the Court will dismiss the action in its entirety as to the *County*,
 8 with prejudice and without costs (except as otherwise provided in the *Agreement*).

9 16. All reasonable costs and expenses incurred in identifying and
 10 providing notice to *Class Members* and in administering the *Settlement Fund* shall
 11 be paid as set forth in the *Settlement Agreement*.

12 17. The Court retains jurisdiction over all proceedings arising out of or
 13 related to the *Settlement Agreement*.

14 18. If for any reason the *Settlement Agreement* does not become
 15 effective in accordance with the terms of the *Settlement Agreement*, this
 16 Preliminary Approval Order shall be rendered null and void and shall be vacated
 17 *nunc pro tunc*.

18 19. Without further order of the Court, the *Settling Parties* may agree to
 19 reasonable extensions of time to carry out any of the provisions of this
 20 Preliminary Approval Order or the *Agreement*.

21 20. Pending final determination as to whether the *Settlement*, as set forth
 22 in the *Settlement Agreement*, should be approved, no *Class Member* shall
 23 commence, prosecute, pursue, or litigate any *Released Claims* against the *County*,

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ORDER GRANTING JOINT MOTION FOR
 CLASS CERTIFICATION FOR
 SETTLEMENT PURPOSES AND
 PRELIMINARY APPROVAL OF
 PROPOSED SETTLEMENT- 6
 CV-12-05157-LRS

12-5157 Proposed Order Granting Joint Motion for Class Cert

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1 whether directly, representatively, or in any other capacity, and regardless of
2 whether or not such *Class Member* has appeared in the action.

3 IT IS SO ORDERED.

4 Dated: September 19, 2014.

5 *s/Lonny R. Suko*

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7 LONNY R. SUKO
8 SENIOR U.S. DISTRICT COURT JUDGE
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ORDER GRANTING JOINT MOTION FOR
CLASS CERTIFICATION FOR
SETTLEMENT PURPOSES AND
PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT- 7
CV-12-05157-LRS

12-5157 Proposed Order Granting Joint Motion for Class Cert

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